



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Department of Agriculture  
Austin, Texas

Gentlemen:

Attention: Mr. W. F. Bussey, Chief  
Division of Weights and  
Measures

Opinion No. O-2895  
Re: Standard Bushel of Apples

We have your letter on the above subject which  
reads in part as follows:

"Article 5734, RGS, 1925 reads in part  
as follows: 'Whenever any of the following ar-  
ticles shall be contracted for, sold or deliver-  
ed, the weight per bushel or barrel or divisi-  
ble merchantable quantities of a bushel or  
barrel shall be as follows: - - - Apples, green,  
per bushel, 50 pounds. - - -'

"Another portion of Article 5734, RGS,  
1925 reads as follows: - - - Whenever any of  
the following articles are sold by the cubic  
yard, and the same are weighed, the following  
weights shall govern; Torpedo sand or gravel,  
3,000 pounds equal one cubic yard, and 2,500  
pounds of bank sand equals one cubic yard.'  
(underscoring ours)

We would understand from the first quota-  
tion from Article 5734, RGS, 1925 that it is  
intended that '50 pounds' of green apples is  
the only 'Standard Bushel' of this commodity  
which is to be recognized in Texas; however,  
the portion of the last quotation which we have  
underscored would lead us to believe that only  
if and when any of the commodities referred to  
in that paragraph are weighed, to determine the  
amount sold or delivered, would the weight men-  
tioned in the article be the determining factor  
in establishing 'One Cubic Yard,' while in in-  
stances where the amount delivered is determin-

ed by actual measurement, 'One Cubic Yard' would mean '27 cubic feet' regardless of the weight of the commodity.

"We find in Article 1042 of the Penal Code certain penalties established for those who fail to regard the units of measure as established in Article 5734, RCS, 1925.

"In Article 109, RCS, 1925 we find the following: 'The following standards of containers for the shipment of fruit and vegetables in this State are hereby established and adopted as State standards.

"1. Standard Bushel basket. The standard bushel basket shall contain not less than 2150.4 cubic inches in the basket proper, regardless of the manner in which the lid is made.'

"Now, while Article 5734, RCS, 1925 leads us to believe that the only 'standard bushel' green apples in the State of Texas is '50 pounds', Article 109, RCS, 1925 seems to indicate that it would also be legal to ship and sell green apples by the bushel in the 'Standard Bushel basket.'

"Owing to the fact that the 'Standard bushel Basket' when properly packed and filled with green apples will not weigh '50 pounds' and in most instances, will weigh considerably less than '50 pounds', we are frequently confronted with the question of just what shall constitute a 'Standard bushel' of green apples."

we have given careful consideration to this most perplexing problem, and have reached the conclusion that the well-reasoned analysis contained in your letter above quoted is correct, i. e., that green apples when sold in bulk or when measured by weight are to be sold upon the basis of 50 pounds to the bushel as prescribed by Article 5734, R. C. S., but that when green apples are sold in bushel containers the weight of such bushel is immaterial,

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so long as such bushel basket contains 2150.4 cubic inches as prescribed by Article 109, R. C. S. In each instance the sale is in accordance with the understanding and intention of the parties.

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY *Walter R. Koch*  
Walter R. Koch  
Assistant

WRK:LM

FEB 7, 1941

ATTORNEY GENERAL OF TEXAS

